IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

Bail Appl..No. 7490 of 2007(E)

(CRIME NO. 177/2007 OF RAJAPURAM POLICE STATION)
.....

PETITIONER/ACCUSED:

SAJI GEORGE, AGED 28 YEARS,
S/O M.J.GEORGE, MOOLAYIL HOUSE,
NELLIKUNNU, P.O.PANATHUR, KASARGODE DISTRICT.

BY ADV. SRI.JAWAHAR JOSE.

RESPONDENT/COMPLAINANT AND STATE:

THE STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/12/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7490 of 2007

Dated this the 6th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations in a crime registered under Section 306 I.P.C. The crux of the allegations against the petitioner is that he had illicit relationship with a young unmarried girl, sister of an employee of his. She became pregnant. After she became pregnant, she was obliged to reveal the name of the person responsible for the pregnancy. There was an attempt to mediate then. Initially a conciliatory attitude was adopted by the petitioner. Later, things had changed and the petitioner had allegedly threatened the deceased with dire consequences if she were to reveal to the world his responsibility for her pregnancy. He allegedly exhorted her to commit suicide. She will be done away with, she was threatened also. Under the pressure of these circumstances, the deceased allegedly did commit suicide on 4/11/2007. Investigation is pending. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the allegations are totally false. The petitioner had no

relationship with the girl, that is the deceased. He has no responsibility for the pregnancy. There was no agreement on his part at all to own the pregnancy and to look after her. Allegations that he had threatened her and exhorted her to commit suicide are all incorrect. Falsity of the allegation can be gauged from the fact that there was strained relationship between the petitioner and the brother of the deceased who was under the employment of the petitioner. He had filed applications before authorities about such disputes claiming relief. In these circumstances, the petitioner who is totally innocent may be saved of the trauma of undeserved arrest and detention. 3. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor opposes the application. Available indications point to the complicity of the petitioner. At any rate, the petitioner is not entitled to invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor. The petitioner may be directed to surrender before the investigating officer or the learned Magistrate having jurisdiction, co-operate with the investigating officer and then seek regular bail in the ordinary course, submits the learned Public Prosecutor.

4. The case diary has been placed before me. I have perused the same. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007